

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SCOTT WILLIAM CLEWIS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

NO. CR98-5070JET

ORDER

THIS MATTER comes on before the above-entitled Court upon Defendant's Motion for Writ of Error *Audita Querela*.

Having considered the entirety of the records and file herein, the Court finds and rules as follows:

Defendant seeks re-sentencing by way of a Writ of *Audita Querela* based upon United States v. Booker, 125 S.Ct. 738 (January 12, 2005). The Defendant's sentence became final prior to the decision in Booker.

Booker does not apply retroactively to cases that became final prior to January 12, 2005. Guzman v. United States, 2005 WL 80324 (2d Cir. (N.Y.)). Accordingly, it is hereby

1 ORDERED that Defendant's Motion for Writ of Error *Audita Querela* is DISMISSED.

2 The clerk of the court is instructed to send uncertified copies of this Order to all counsel of
3 record.

4 DATED this 28th day of June, 2005.

5
6 /s JACK E. TANNER

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8 JACK E. TANNER
9 SR. UNITED STATES DISTRICT JUDGE
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